

**FIRESTONE TIRE AND RUBBER COMPANY OF THE PHILIPPINES,
PETITIONER, VS. FIRESTONE TIRE AND RUBBER COMPANY
EMPLOYEES UNION, NATIONAL LABOR RELATIONS COMMISSION
AND VOLUNTARY ARBITR...**

G.R. No. 75363. August 04, 1992

Ponente: NOCON, J.

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NOCON, J.:

Petitioner assails the June 23, 1983 decision of the public respondent National Labor Relations Commission dismissing petitioner's appeal of the July 14, 1981 Resolution of public respondent Voluntary Arbitrator Domingo Zapanta on the ground that the same was filed beyond the reglementary period as well as the June 17, 1986 Resolution denying petitioner's Motion for Reconsideration.

Public respondent Voluntary Arbitrator Domingo Zapanta summarized the events leading to the questioned July 14, 1981 Resolution, thus:

"From the position papers submitted by both parties it can very well be gathered that in 1973, the Associated Labor Union (ALU) was voluntarily recognized by the Firestone Tire and Rubber Company of the Philippines, herein referred to as the company as the bargaining agent of the hourly paid employees working at its plant in Barrio Sucat, Muntinglupa, Rizal, and they concluded a Collective Bargaining Agreement (CBA) effective for the period from February 1, 1973 up to January 31, 1976. Sections 1 and 2 x x x, Article VI of the said CBA provide, to wit:

'Section 1. After one year of continuous and satisfactory service, hourly paid employees shall be entitled to vacation leave as follows:

Service Vacation Leave

1 year and 1 day - 2 calendar weeks

to 5 years plus 1 day

5 years and 1 day - 2 calendar weeks

to 10 years plus 2 days

10 years and 1 day - 2 calendar weeks

above plus 3 days

'Section 2. Pay for the two week period of vacation leave indicated above, will be calculated at four per centum (4%) of the employee's gross earnings during the previous fiscal year. Additional days indicated above the two-week period will be paid at employee's current base rate.

‘xxx xxx xxx.’

"The above CBA was renewed by ALU and the Company effective February 1, 1977 to January 31, 1980, and the same carried similar provisions with respect to Vacation Leave. In the 1978 certification election supervised by the Ministry of Labor, FEU won and was certified as the bargaining agent, in lieu of the ALU, of all the hourly-paid employees. The Company and FEU concluded a CBA effective June 1, 1978 to January 31, 1980, superseding the unexpired portion of the CBA previously renewed by the Company and ALU. Sections 1 and 2, x x x Article VI of the said CBA, provide, to wit:

'Section 1. After one year of continuous and satisfactory service, hourly paid employees shall be entitled to vacation leave as follows:

Service Vacation Leave

1 year and 1 day - 2 calendar weeks

to 5 years plus 1 day

5 years and 1 day - 2 calendar weeks

to 10 years plus 2 days

10 years and 1 day - 2 calendar weeks

to 15 years plus 4 days

15 years and 1 day - 2 calendar weeks

above plus 5 days'

'Section 2. Pay for the two-week period of vacation leave indicated above, will be calculated at four per centum (4%) of the employee's gross earnings during the previous fiscal year. Additional days indicated above the two-week period, will be paid at employee's current base rate.'

‘xxx xxx xxx.

"After the CBA of the Company and FEU expired on January 31, 1980 they concluded a renewed CBA effective July 25, 1980 to January 31, 1983, except the effectivity of the Wage Increase which was made retroactive February 1, 1980. Sections 1 and 2 x x x Article VI of the said CBA provides:

'Section 1. After one (1) year of continuous and satisfactory service, hourly-paid employees shall be entitled to vacation leave as follows:

a) Each employee with at least one (1) year and one day up to 5 years service shall be entitled to 13 working days of vacation leave to be calculated at 4.33% of the employee's gross earnings during the previous fiscal year.

b) Each employee with five (5) years and one day up to 10 years service will be entitled to 14 working days of vacation leave to be calculated at 4.66% of the employee's gross earnings during the previous fiscal year.

c) Each employee with ten (10) years and one day up to 15 years service will be entitled to 16 working days of vacation leave to be calculated at 5% if the employee's gross earnings during the previous fiscal year.

d) Each employee with more than 15 years' service will be entitled to 17 working days of vacation leave. Vacation pay will be calculated at 5.6% of the employee's gross earnings during the previous fiscal year.

‘xxx xxx xxx.’

"That in previous CBA, the Company used 12 as divisor in computing the daily vacation pay for the first and second weeks as follows:

Daily Vacation Pay = Annual Gross Earnings x .04

12

and for the daily vacation pay for remaining days the hourly rate is multiplied by 8 multiplied by the number of remaining days."[1]

To implement the 1980-1983 CBA, petitioner used the following formula:

Annual Gross Applicable

Daily Vacation Pay = Earnings x Percentage

No. of Vacation Leave Days

Petitioner claims that under the foregoing formula, the number of vacation leave days used as a divisor would necessarily vary depending upon the employee's length of service, unlike in the prior CBA where 12 was a constant divisor, representing as it did the first two weeks of vacation leave to be commuted at a uniform rate of 4% of the employee's annual gross earnings.

The core of respondent Union's position in the proceedings below is that the "revised formula is impractical and disadvantageous to the employees because the longer their service to the Company, even with the increased percentage of calculation, their respective daily cash equivalent for vacation leave are whittled down because the divisor becomes bigger."

On March 30, 1981, the parties agreed to submit their dispute regarding the computation of vacation leave pay of the employees of petitioner under their collective bargaining agreement (CBA) to voluntary arbitration, pursuant to the Labor Code and the provisions of said CBA requiring such mode of disposition of all matters involving the interpretation of the CBA.

On July 14, 1981, public respondent Zapanta issued said Resolution directing petitioner "to continue with the practice of using 12 as a divisor in computing the daily vacation pay."[2]

On September 7, 1981, petitioner filed a Motion for Partial Reconsideration dated August 15, 1981, of the above-mentioned Resolution but the same was denied for lack of merit by public respondent Zapanta on September 25, 1981.

On October 16, 1981, the petitioner filed an appeal of the September 25, 1981 Order which was opposed by the private respondent union on November 3, 1981 on the ground that the Resolution in question had already become final and executory.

Finding private respondent union's argument well-taken, the public respondent dismissed the appeal in a decision rendered June 23, 1983. Petitioner's motion for reconsideration filed August 4, 1983, was denied for lack of merit on June 17, 1986.

Hence, this petition where petitioner claims that the public respondents acted with grave abuse of discretion and/or excess of jurisdiction in that:

1. The public respondents imposed upon petitioner a formula in the commutation of vacation leave which is clearly contrary to the intention of the parties unequivocally expressed in petitioner's CBA with private respondent; and

2. The respondent voluntary arbitrator exceeded his arbitration powers in altering the terms of the CBA between petitioner and private respondent.

We vote to dismiss the petition.

In the recent case of *Italian Village Restaurant and/or Andrew Ng vs. National Labor Relations Commission and Felicisimo D. Evangelista*,^[3] this Court reiterated the well-settled doctrine that appeal within the reglementary period from the decision being questioned is jurisdictional as these mandatory periods are imposed to prevent needless delays and to ensure the orderly and speedy discharge of judicial business.

For the guidance of the bench and bar, We take this opportunity to state that this Court will continue to be very strict regarding appeal's filed outside the reglementary periods for filing the same, specially with respect to labor cases where:

To extend the period of the appeal is to delay the case, a circumstance which could give the employer the chance to wear out the efforts and meager resources of the worker that the latter is constrained to give up for less than what is due him.^[4]

We quote with approval the public respondent NLRC's finding of fact on the failure of petitioner to timely appeal the questioned resolution of the public respondent voluntary arbitrator - which finding of fact is binding on Us - thus:

"Evident from the record is the succinct fact that the Company did not appeal from the Resolution in question. Instead, the Company filed a Motion for Partial Reconsideration dated August 15, 1981 which was submitted to and received by the voluntary arbitrator on September 7, 1981. And while the motion failed to state the date of receipt by the Company of the questioned Resolution, there is that certification by the Postmaster of Makati Commercial Center Post Office to the effect that Registered Letter No. 52175 (Resolution) posted on August 7, 1981 by the voluntary arbitrator, addressed to Company General Manager, was actually delivered to and received by Dio Intalan (Building Security Guard) on August 11, 1981.

"As aptly observed by the union, the Company must have received a copy of the said Resolution before August 15, 1981, date of its Motion for Partial Reconsideration. We noted that from August 15, 1981 to September 7, 1981, date of filing of motion, twenty-three (23) days (or sixteen (16) working days) had already elapsed.

"Indeed, even if We treat the aforesaid motion as an appeal, as the Company pretended, We hold that the same was filed beyond the reglementary period set forth under Section 5, Rule XI, Book V of the Code's implementing rules and regulations. We cannot, for such reason, entertain such an appeal."^[5]

As further explained by the Solicitor General:^[6]

"It should be stressed that for reason only known to petitioner, the date of receipt by petitioner or its counsel, of the aforementioned Resolution, has not been mentioned in petitioner's Motion For Partial Reconsideration dated August 15, 1981 and also in petitioner's basic petition and in its Reply dated January 5, 1987 to public respondents' Comment dated December 9, 1986. Whether such actuation of petitioner was by design or not, public respondents have no way of knowing.

"In any event, petitioner did not appeal public respondent voluntary arbitrator's Resolution dated July 14, 1981 (Annex 'A', Petition) within the reglementary period of ten (10) days from receipt thereof, to public respondent NLRC. What petitioner did was to file a Motion For Partial Reconsideration dated August 15, 1981, which was received on September 7, 1981 by public respondent voluntary arbitrator. During the interim, that is, from August 15, 1981 to September 7, 1981, twenty three (23) days had already elapsed. It is, therefore, indubitably clear that at the time when petitioner filed its Motion For Partial Reconsideration dated August 15, 1981 the reglementary period of ten (10) days for perfecting an appeal from public respondent voluntary arbitrator's

Resolution dated July 14, 1981 had long expired. For this compelling reason, even if it is assumed that petitioner's aforesaid Motion For partial Reconsideration dated August 15, 1981 could be treated as an appeal from public respondent voluntary arbitrator's Resolution dated July 14, 1981, the appeal, just the same, could not have been entertained, as it was obviously filed beyond the ten-day reglementary period provided for in Section 5, Rule XI, Book V of the Rules and Regulations implementing the Labor Code." [7]

But even if petitioner had appealed on time,[8] there is no factual basis for reversing public respondent Voluntary Arbitrator's Resolution, for contrary to the claim of petitioner that in imposing upon petitioner the voluntary arbitrator's perception of what the CBA should provide, notwithstanding its clear language, said voluntary arbitrator gravely exceeded his jurisdiction, public respondent NLRC found out that:

"Even if We lean backwards and assume the unassumable - that there is perfected appeal - still, a review of the record, issues and arguments fail to disclose any imperious cause for Us to disquiet the Resolution sought to be traversed. The voluntary arbitrator's Order of September 25, 1981, which denied the Company's motion, appraised the facts as follows:

'From the said Motion and the arguments advanced by respondent, we cannot find any substantial additional arguments for us to reconsider the Resolution subject of this motion. It is admitted by the parties that the old and the new CBA both fail to provide the divisor in computing the daily vacation pay of the employees. Respondent assumes that by the increase of the annual gross earnings, there should be a corresponding change of the divisor, while the union believes that there should be no such change in the absence of any provision in the CBA, for the use of 12 as divisor has been a practice or policy of the respondent. As between two assumptions, the one that is in keeping with the practice or policy should prevail over the one against it. This being so, we cannot find our way clear in reconsidering the subject resolution.' (Underscoring supplied)[9]

If, as petitioner claims, the 1980-1983 CBA was written in a "clear Language" then this case would never have reached Us at all. The very existence of this petition is testimony to the ambiguity involved as to the continued use of the divisor 12 in computing the daily vacation pay of petitioner's employees.

Petitioner, in a last-ditch attempt to persuade Us that the new CBA (1980-1983) will mean more benefits for private respondent union - even without the divisor 12, summarized in tabular form the cash benefits to be received by them.[10]

A clearer picture, however, will emerge if the cash benefits to be received by private respondent union using the divisor 12 will be tabulated alongside petitioner's tabulation, which clearer picture, assuming gross earnings of P36, 000.00 p.a., follows:

Employee Grouping (service in yrs.)

Expired CBA[11]

1980-1983 CBA

No Divisor[12] With Divisor 12

1 – 5 yrs.

P 1,496.00[13]

1,558.83[14] 1,688.70[15]

5 yrs 1 day – 10 yrs.

P 1,552.00

1,677.62 1,957.20

10 yrs 1 day – 15 yrs.

P 1,664.00

1,800.00 2,400.00

15 yrs. 1 day – above

P 1,720.00

2,016.93 2,850.00

Private respondent union will receive more cash benefits if the divisor 12 will be used. The questioned public respondent's NLRC June 23, 1983 decision and June 17, 1986 resolution are, therefore, only in keeping with the constitutional mandate for the States to afford full protection to labor such that, when conflicting interests of labor and capital are to be weighed on the scales of sound practice, the heavier influence of the latter should be counterbalanced by the sympathy and compassion the law must accord the underprivileged worker.[16]

WHEREFORE, premises considered, the petition is denied for lack of merit. Costs against the petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Rollo, pp. 18-21.

[2] Ibid. p. 22.

[3] G.R. No. 95594, March 11, 1992.

[4] Ibid, p. 7.

[5] Rollo, p. 28.

[6] The Comment and Reply of the public respondents prepared by the Solicitor General were adopted by private respondents in its Comment dated July 10, 1987, pp. 90-91. Rollo.

[7] "Sec. 5. Exception to finality of decision, appeal procedure. - Except in cases where the parties agreed that the voluntary arbitration decision shall be final and executory or after they had a choice not to submit to voluntary arbitration but opted for the same, voluntary arbitration decision or award on money claims involving more than P100,000.00 or 40 percent of the paid-up capital of respondent employer, whichever is lower, may be appealed to the commission, but only on the following grounds:

(a) Abuse of discretion; and

(b) Gross incompetence

"The appealing party shall, within ten (10) days upon receipt of such decision or award file his appeal to the voluntary arbitrator stating specifically the grounds therefore, the errors committed and the reliefs sought.

"The Commission shall decide the appeal within twenty (20) working days from receipt of the entire records of the case. The voluntary arbitrator or panel of arbitrators shall forward the entire records of the case to the Commission within five (5) days from receipt of the appellee's answer." (Rollo, pp. 75-76)

[8] No such allegation was immediately made by petitioner in its Motion for Reconsideration of public respondent voluntary arbitrator's July 14, 1981 Resolution filed September 7, 1981.

Neither was it made in the following pleadings:

- (1) Its appeal with public respondent NLRC of public respondent voluntary arbitrator's July 14, 1981 Resolution and September 25, 1981 Order filed October 16, 1981;
- (2) Its Motion for Reconsideration of public respondent NLRC's June 23, 1983 decision filed August 1, 1983;
- (3) Its Petition before this Court questioning the public respondents' Decision and Resolution filed August 5, 1986;
- (4) Its Reply to Public Respondents' Comment filed January 6, 1987.

It is only in its Sur-Rejoinder filed on August 31, 1987 that petitioner springs this surprise of non-receipt by its counsel of public respondent voluntary arbitrator's July 14, 1981 Resolution. From September 7, 1981 to August 31, 1987 is a span of six (6) years.

We declare that petitioner is now estopped from claiming the same.

This Court recently reiterated the doctrine of estoppel in this wise:

"x x x The doctrine of estoppel upon the based dealing, good faith and justice, and its purpose is to forbid one to speak against its own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon. The doctrine of estoppel springs from equitable principles and the equities in the case. It is designed to aid the law in the administration of justice where without its aid injustice might result. It has been applied by this Court wherever and whenever the special circumstances of a case so demands." (Philippine National Bank vs. Intermediate Appellate Court, 189 SCRA 680, 688)

[9] Rollo, pp. 28-29.

[10] Ibid, p. 158.

[11] Petitioner's Tabulation, Rollo, p. 158.

[12] Ibid, p. 158.

[13] Daily Vacation Pay (1st 2 weeks) = Annual Gross Earnings x .04

12

Vacation pay (1st 2 weeks) = Daily Vacation Pay (1st 2 weeks) x 12 + Vacation Pay (remaining days) = Hourly Rate x 8 x No. Remaining Days

[14] Daily Vacation Pay =

Annual Gross Earnings x Applicable Percentage

No. Vacation Leave Days

Vacation Pay = Daily Vacation Pay x No. Vacation leave days

[15] Daily Vacation Pay = Annual Gross Earnings x Applicable Percentage

12

Vacation Pay = Daily Vacation Pay x No. Vacation Leave Days

[16] Philippine Telegraph and Telephone Corporation vs. NLRC, 183 SCRA 451, 456.

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